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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,448	11/06/2003	Hiroshi Komatsu	X00	7624

20457 7590 09/10/2004

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EXAMINER

LE, HOA VAN

ART UNIT	PAPER NUMBER
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1752

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/701,448	Applicant(s) KOMATSU, HIROSHI	
	Examiner Hoa V. Le	Art Unit 1752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-13 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

This application is up for consideration.

A. The record shows that the instant set of claims are from multiple foreign priority applications.

B. In view of the complexity of the issues in the claimed inventions, this Office action is made.

C. Claims 1-19 are generic to a plurality of disclosed patentably distinct species comprising many possible chemical structures of the general formula I as broadly disclosed in the art. Applicant is required under 35 U.S.C. 121 to elect a single disclosed chemical structure species for an initiation of a search, even though this requirement is traversed. Applicants are requested and required to precisely disclose the elected chemical structure with (1) all bonding connections between and among all chemical ingredients and (2) listing of all chemical elements and their positions in the elected chemical structure for a precise consideration and search. No consideration or search will be made until these request and requirement are properly and fully met. It is now notified for the record.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Art Unit: 1752

D. No restriction requirement under 35 U.S.C. 121 is made between groups of claims (1-10), (11) and (12-13). Therefore, no separate consideration or search is made. Groups claim (11) and (12-13) are permitted to be rejoined with at least claim 1 when claim 1 is found to be allowable over a prior art. Should applicants disagree, urge or show otherwise in the next response to this Office action in order for it to be considered timely, a restriction will be made for the record as urged or shown.

E. A consideration or search for all or many or several or more than one reasonable rejected species at one time is burdensome, lacks of focus on many and all issues in the claimed inventions and dilutes patentability of many and all issues in many inventions than those in one. Applicant should show or provide a convincing evidence to the contrary. In the absence of convincing evidence, the restriction would not be removed.

F. Applicant is advised that the reply to this requirement to be complete must include an election as set forth on the record to be examined even though the requirement be traversed (37 CFR 1.143).

G. Other issues have not been considered until a proper election is made and resolved all of the requirements as clearly pointed out and set forth above.

H. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Hoa V. Le whose telephone number is 571-272-1332.

The examiner can normally be reached from 6:30 AM to 4:00 PM on Monday through Thursday and about the same time of most Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on 571-272-1526.

Applicants may file a paper by (1) fax with a central facsimile receiving number 703-872-9306,

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hoa V. Le
Primary Examiner
Art Unit 1752

HOA VAN LE
PRIMARY EXAMINER



HVL
02 September 2004